

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1417 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 16-18-2-353.5 IS ADDED TO THE INDIANA
- 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 5 [EFFECTIVE JULY 1, 2003]: **Sec. 353.5. "Training or educational**
- 6 **purposes", for purposes of IC 16-39-7.1, has the meaning set forth**
- 7 **in IC 16-39-7.1-1.5.**
- 8 SECTION 2. IC 16-39-7.1-1.5, IS ADDED TO THE INDIANA
- 9 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 10 [EFFECTIVE JULY 1, 2003]: **Sec. 1.5. As used in this chapter,**
- 11 **"training or educational purposes" means for the purpose of:**
- 12 **(1) teaching or giving lectures to:**
- 13 **(A) medical students;**
- 14 **(B) physicians;**
- 15 **(C) coroners;**
- 16 **(D) law enforcement personnel;**
- 17 **(E) public safety personnel;**
- 18 **(F) attorneys; or**
- 19 **(G) an individual who relies upon information or records**
- 20 **regulated under this chapter in the course of the**
- 21 **individual's profession or occupation;**
- 22 **(2) publication in professional medical:**
- 23 **(A) books; or**
- 24 **(B) periodicals; or**
- 25 **(3) use in:**
- 26 **(A) training videos; or**
- 27 **(B) computer programs.**
- 28 SECTION 3. IC 16-39-7.1-3, AS ADDED BY P.L.271-2001,
- 29 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 30 JULY 1, 2003]: **Sec. 3. (a) A surviving spouse may:**
- 31 **(1) view and copy a photograph or video recording; and**
- 32 **(2) listen to and copy an audio recording;**

1 of the deceased spouse's autopsy. If there is no surviving spouse, the
2 surviving parents shall have access to the records under this subsection.
3 If there is no surviving spouse or parent, an adult child shall have
4 access to the records.

5 (b) Upon making a written request, a unit (as defined in IC 36-1-2-
6 23), the state, an agency of the state, the federal government, or an
7 agency of the federal government, while in performance of their official
8 duty, may:

- 9 (1) view and copy a photograph or video recording; and
- 10 (2) listen to and copy an audio recording;

11 of an autopsy. Unless otherwise required in the performance of their
12 duties, the identity of the deceased must remain confidential.

13 (c) The physician having custody of a photograph, a video
14 recording, or an audio recording of an autopsy may use or allow the use
15 of the photograph, video recording, or audio recording of the autopsy
16 for **case consultation with a pathologist or forensic scientist. The**
17 **physician having custody of a photograph, a video recording, or an**
18 **audio recording of an autopsy may also use or allow the use of the**
19 **photograph, video recording, or audio recording of the autopsy for**
20 training or educational purposes if all information that identifies the
21 individual on whom the autopsy was performed is masked or removed
22 from the photograph, video recording, or audio recording. **For**
23 **purposes of this subsection, information that identifies an**
24 **individual consists of:**

- 25 (1) the name;
- 26 (2) the address;
- 27 (3) the Social Security number;
- 28 (4) a full view of the face; or
- 29 (5) identifying marks on the body that are unrelated to the
30 educational purpose of the information or to the medical
31 condition or the medical status;

32 of the deceased individual. A physician who allows the use of
33 autopsy information under this subsection has a duty to disclose to
34 each person to whom the physician releases it that the information
35 is confidential and may not be used for a purpose other than the
36 purpose for which it was originally released. A physician who fails
37 to disclose the confidentiality restrictions of this information
38 commits a Class A misdemeanor.

39 (d) **Except as provided in subsection (c),** the physician having
40 custody of a photograph, a video recording, or an audio recording of an
41 autopsy may not permit a person to:

- 42 (1) view and copy a photograph or video recording; and
- 43 (2) listen to and copy an audio recording;

44 of an autopsy without a court order.

45 (e) **Information disclosed under subsection (c) is confidential.**

46 SECTION 4. IC 16-39-7.1-6, AS ADDED BY P.L.271-2001,
47 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
48 JULY 1, 2003]: Sec. 6. (a) A provider who:

- 49 (1) is the custodian of a photograph, a video recording, or an
50 audio recording of an autopsy; and
- 51 (2) knowingly or intentionally violates this ~~section~~; **chapter**;

52 commits a ~~Class D felony~~; **Class A misdemeanor**.

(b) A person who knowingly or intentionally violates a court order issued under this ~~section~~ **chapter** commits a ~~Class D felony~~. **Class A misdemeanor.**

(c) A person who:

(1) receives autopsy information under section 3(c) of this chapter; and

(2) knowingly or intentionally uses the information in a manner other than the specified purpose for which it was released;

commits a Class A misdemeanor."

Page 3, after line 12 , begin a new paragraph and insert:

"SECTION 6. IC 36-2-14-10, AS AMENDED BY P.L.271-2001, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) After viewing the body, hearing the evidence, and making all necessary inquiries, the coroner shall draw up and sign his verdict on the death under consideration. The coroner shall also make a written report giving an accurate description of the deceased person, his name if it can be determined, and the amount of money and other property found with the body. The verdict and the written report are subject to inspection and copying under IC 5-14-3-3.

(b) Except as provided in subsections (c), (d), and (e), a photograph, video recording, or audio recording of an autopsy in the custody of a medical examiner is declared confidential for purposes of IC 5-14-3-4(a)(1).

(c) A surviving spouse may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of the deceased spouse's autopsy. If there is no surviving spouse, the surviving parents shall have access to the records under this section. If there is no surviving spouse or parent, an adult child shall have access to the records.

(d) Upon making a written request, a unit (as defined in IC 36-1-2-23), the state, an agency of the state, the federal government, or an agency of the federal government, while in performance of their official duty, may:

(1) view and copy a photograph or video recording; and

(2) listen to and copy an audio recording;

of an autopsy. Unless otherwise required in the performance of ~~their~~ **official** duties, the identity of the deceased must remain confidential.

(e) The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may **use or** allow the use of the photograph, video recording, or audio recording of the autopsy for **case consultation with a pathologist or forensic scientist. The coroner or the coroner's designee having custody of a photograph, a video recording, or an audio recording of an autopsy may also use or allow the use of the photograph, video recording, or audio recording for** training or educational purposes (as defined in IC 16-39-7.1-1.5) if all information that identifies the individual on whom the autopsy was performed is **masked or** removed from the photograph, video recording, or audio

recording. **For purposes of this subsection, information that identifies an individual consists of:**

- (1) the name;**
- (2) the address;**
- (3) the Social Security number;**
- (4) a full view of the face; or**
- (5) identifying marks on the body that are unrelated to the medical condition or medical status;**

of the deceased individual. A coroner or coroner's designee who allows the use of autopsy information under this subsection has a duty to disclose to each person to whom the coroner or coroner's designee releases it that the information is confidential and may not be used for a purpose other than the purpose for which it was originally released. Information disclosed under this subsection is confidential. A coroner or coroner's designee who fails to disclose the confidentiality restrictions of this information commits a Class A misdemeanor.

(f) Except as provided in subsection (e), the coroner or the coroner's designee having custody of a photograph, a video, or an audio recording of an autopsy may not permit a person to:

- (1) view or copy the photograph or video recording; and**
- (2) listen to or copy the audio recording;**

of an autopsy without a court order.

(g) A court, upon a showing of good cause, may issue an order authorizing a person to:

- (1) view or copy a photograph or video recording; and**
- (2) listen to or copy an audio recording;**

of an autopsy, and may prescribe any restrictions or stipulations that the court considers appropriate.

(h) In determining good cause under subsection (g), the court shall consider:

- (1) whether the disclosure is necessary for the public evaluation of governmental performance;**
- (2) the seriousness of the intrusion into the family's right to privacy;**
- (3) whether the disclosure of the photograph, video recording, or audio recording is by the least intrusive means available; and**
- (4) the availability of similar information in other public records, regardless of form.**

(i) In all cases, the viewing, copying, listening to, or other handling of a photograph, video recording, or audio recording of an autopsy must be under the direct supervision of the coroner, or the coroner's designee, who is the custodian of the record.

(j) A surviving spouse shall be given:

- (1) reasonable notice of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording;**
- (2) a copy of the petition filed with the court to view or copy a photograph or video recording of an autopsy or a petition to listen to or copy an audio recording; and**

- 1 (3) reasonable notice of the opportunity to be present and heard
 2 at any hearing on the matter.
- 3 (k) If there is no surviving spouse, the notice under subsection (j)
 4 must be given to the deceased's parents, and if the deceased has no
 5 living parent, the notice must be given to the adult children of the
 6 deceased.
- 7 (l) A coroner or coroner's designee who:
 8 (1) is the custodian of a photograph, a video recording, or an
 9 audio recording of an autopsy; and
 10 (2) knowingly or intentionally violates this section;
 11 commits a ~~Class D felony~~. **Class A misdemeanor.**
- 12 (m) A person who knowingly or intentionally violates a court order
 13 issued under this section commits a ~~Class D felony~~. **Class A**
 14 **misdemeanor.**
- 15 (n) A person who:
 16 (1) receives autopsy information under subsection (e); and
 17 (2) knowingly or intentionally uses the information in a
 18 manner other than the specified purpose for which it was
 19 released;
 20 commits a **Class A misdemeanor.**"
- 21 Renumber all SECTIONS consecutively.
 (Reference is to EHB 1417 as printed April 4, 2003.)

Senator DILLON